

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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United States of America,

Case No. 21-cr-238 (ADM/TNL)

Plaintiff,

v.

**ORDER**

Matthew Devonte Johnson (1),

Defendant.

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This matter comes before the Court on Defendant Matthew Devonte Johnson's Motion for Extension of Time to File Pretrial Motions (ECF No. 143) and Motion to Exclude Time Under Speedy Trial Act (ECF No. 144). Defendant requests a four-week extension of the motions filing date, from September 2 to September 30, 2022. (ECF No. 143.) Defendant's counsel contends that he needs additional time to review the voluminous discovery in this case and prepare any necessary motions. (*Id.*) The Government does not object to the extension. (*Id.*)

Defendant also filed a Statement of Facts in Support of Exclusion of Time Under the Speedy Trial Act. (ECF No. 145.) In his Statement of Facts, Defendant requests that this period of time be excluded from the time in which he would otherwise be brought to trial in this case. (*Id.*)

Pursuant to 18 U.S.C. § 3161(h), this Court finds that the ends of justice served by granting a continuance outweigh the best interests of the public and Defendants in a speedy

trial and such continuance is necessary to provide Defendant and his attorney reasonable time necessary for effective preparation and to make efficient use of the parties' resources.

Additionally, beginning on March 13, 2020, and continuing thereafter, the Chief District Judge for the United States District Court for the District of Minnesota has issued a series of General Orders in connection with the COVID-19 pandemic, addressing, among other things, criminal proceedings and trials.<sup>1</sup> On June 1, 2022, the Chief District Judge entered General Order No. 36, which allows limited in-person proceedings for defendants who decline to consent to conducting the proceeding using videoconferencing, or telephone conferencing if videoconferencing is not reasonably available. *See generally In re: Updated Guidance to Court Operations Under the Exigent Circumstances Created by COVID-19*, Gen. Order No. 36 (D. Minn. June 1, 2022). General Order No. 36 states that because only limited in-person proceedings may be held each day, criminal proceedings may be continued until the date that the criminal proceeding takes place.

General Order No. 36 continues to encourage the use of videoconferencing in criminal proceedings and states that, with the defendant's consent, criminal proceedings will be conducted by videoconferencing, or telephone conferencing if videoconferencing is not reasonably available. General Order No. 36 further provides that the presiding judge will enter orders in individual cases to extend deadlines and exclude time under the Speedy Trial Act to address delays attributable to COVID-19. **Accordingly, should Defendant**

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<sup>1</sup> All General Orders related to the COVID-19 pandemic may be found on the Court's website at <https://www.mnd.uscourts.gov/coronavirus-covid-19-guidance>.

**file pretrial motions, counsel shall also file a letter indicating whether Defendant consents to a motions hearing by videoconference.** (*See also* ECF No. 136.)

Based on all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Defendant's Motion for Extension of Time to File Pretrial Motions (ECF No. 143) is **GRANTED**.

2. Defendant's Motion to Exclude Time Under Speedy Trial Act (ECF No. 144) is **GRANTED**.

3. The period of time from **August 26, 2022, through October 28, 2022**, shall be excluded from Speedy Trial Act computations in this case. *See United States v. Mallett*, 751 F.3d 907, 911 (8th Cir. 2014) ("Exclusions of time attributable to one defendant apply to all codefendants." (quotation omitted)); *United States v. Arrellano-Garcia*, 471 F.3d 897, 900 (8th Cir. 2006) (same).

4. All motions in the above-entitled case shall be filed and served consistent with Federal Rules of Criminal Procedure 12(b) and 47 on or before **September 30, 2022**. D. Minn. LR 12.1(c)(1). Two courtesy copies of all motions and responses shall be delivered directly to the chambers of Magistrate Judge Leung.

5. **Should Defendant file pretrial motions, counsel shall also file a letter on or before September 30, 2022, indicating whether Defendant consents to a motions hearing by videoconference.** *See, e.g.*, ECF No. 136.

6. Counsel shall electronically file a letter on or before **September 30, 2022**, if no motions will be filed and there is no need for hearing.

7. All responses to motions shall be filed by **October 17, 2022**. D. Minn. LR 12.1(c)(2).

8. Any Notice of Intent to Call Witnesses shall be filed by **October 17, 2022**. D. Minn. LR. 12.1(c)(3)(A).

9. Any Responsive Notice of Intent to Call Witnesses shall be filed by **October 20, 2022**. D. Minn. LR 12.1(c)(3)(B).

10. A motions hearing will be held pursuant to Federal Rules of Criminal Procedure 12(c) where:

- a. The government makes timely disclosures and a defendant pleads particularized matters for which an evidentiary hearing is necessary; or
- b. Oral argument is requested by either party in its motion, objection or response pleadings.

11. **If required, the motions hearing shall take place before the undersigned on October 28, 2022, at 9:00 a.m., in Courtroom 9W, Diana E. Murphy U.S. Courthouse, 300 South Fourth Street, MINNEAPOLIS, Minnesota.** D. Minn. LR 12.1(d).

12. **TRIAL:**

a. **IF NO PRETRIAL MOTIONS ARE FILED BY DEFENDANT:**  
**the following trial and trial-related dates are:**

All voir dire questions and jury instructions must be submitted to District Judge Ann D. Montgomery on or before *a date to be determined*.

This case must commence trial on *a date to be determined*, before District Judge Ann D. Montgomery in Courtroom *to be determined*, Diana E. Murphy U.S. Courthouse, 300 South Fourth Street, **MINNEAPOLIS**, Minnesota.

b. **IF PRETRIAL MOTIONS ARE FILED, the trial date, and other related dates, will be rescheduled following the ruling on pretrial motions. Counsel must contact the Courtroom Deputy for District Judge Montgomery to confirm the new trial date.**

Dated: August 31, 2022

s/ Tony N. Leung  
Tony N. Leung  
United States Magistrate Judge  
District of Minnesota

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